

FILED

MAY 29 2008

**RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

No. CR-07-0738 MMC

Plaintiffs,

**ORDER STAYING ~~ORDER STAYING~~
ORDER OF RELEASE**

v.

NOE ARIAS-ORDONEZ,

Defendant


Before the Court is the United States' "Ex Parte Motion for Stay of Order Re: Dismissal & Release Pending Appeal," filed May 29, 2008. By said motion, the United States seeks an order staying the Court's May 28, 2008 order, which directs that defendant be released from the custody of the United States Marshal and returned to the custody of Immigration and Customs Enforcement ("ICE"). In essence, the United States requests that defendant be detained by the United States Marshal pending an appeal the United States may file from this Court's order dismissing the instant indictment.

The United States cites no authority to support its argument. In particular, the United States does not cite or discuss 18 U.S.C. § 3143(c). Nevertheless, to provide both the United States and defendant an opportunity to address the matter, the Court hereby STAYS its order releasing defendant to the custody of ICE and orders him DETAINED by

1 the United States Marshal pending a hearing on the instant motion.

2 **IT IS SO ORDERED.**

3
4 Dated: May 29, 2008


MAXINE M. CHESNEY
United States District Judge